



UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

Order 96-3-58
Served 4/1/96

Action on IATA Agreements
Issued by the Department of Transportation
on the 26th day of March, 1996

Agreements adopted by the Tariff :
Coordinating Conferences of the : Docket OST-95-892
International Air Transport Association : R-1 through R-39
relating to passenger fares :

ORDER

Various members of the International Air Transport Association (IATA) have filed an agreement with the Department under section 41309 of Title 49 of the United States Code (Code) and Part 303 of the Department's regulations. The agreement was adopted at the TC12 Passenger Coordinating Conference held in Geneva, October 26-28, 1995, for effectiveness April 1, 1996 1/

The agreement establishes

We will approve the agreement. Based on our review of the information submitted and other relevant material, we conclude that the agreement will not result in fares that are unlawful or injurious to competition in the markets at issue.

Our approval of the proposed premium and promotional fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing these types of fares, which are generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most circumstances.

1/ IATA memoranda TC12 Reso/P 1704-1706, filed with the Department November 30, 1995.

The agreement increases Circle Pacific fares five percent (except those from Canada, which are increased 2.5 percent; and from Japan and Australia, which take no increase); adds new, reduced first class Circle Pacific fares in selected markets at 95% of existing first class Circle Pacific fares for journeys for which first class service is not provided over all sectors; limits stopovers in Australia to two; permits surface travel within North America; and establishes Circle Pacific fares from French Polynesia.

We will approve the agreement, subject to conditions. Based on our review of the information submitted and other relevant material, we conclude that the agreement, as conditioned, will not result in fares that are unlawful or injurious to competition in the markets at issue.

Our approval of these promotional fares is consistent with Department policy as stated in Order 85-3-8, March 4, 1985. We allow carriers wide latitude in pricing these types of fares, which are generally sensitive to market demand and other competitive pressures that obviate the need for regulatory intervention in most circumstances.

Acting under Title 49 of the United States Code (Code), and particularly sections 40101, 40103, 41300, and 41309:

1. We do not find that the following resolutions, which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, provided that approval is subject to previously imposed conditions:

Docket OST-95-892, TC12 Reso/P 1704-1706

<u>Resolution No.</u>	<u>Description</u>	
001a	Special Applicability Resolution (New)	R-1
001m	Special Applicability Resolution Canada/Mexico-Africa	R-2
001q	General Escape Resolution	R-3
001t	Special Provisions Agreements USA-Africa	R-4
002	Standard Revalidating/Amending Resolutin	R-5
015n	USA Add-On Amounts	R-6
015v	Add-On Amounts (except in USA)	R-7

044c	Intermediate Class Fares	R-8
054c	First Class Fares	R-9
064c	Economy Class Fares	R-10
070dd	Excursion Fares between Canada, Mexico, USA and Africa	R-11
073rr	Advance Purchase Excursion Fares between Canada, USA and Africa	R-12
073tt	Advance Purchase Excursion Fares between Canada, USA and Africa	R-13
074v	Special Excursion (PEX) Fares from Southern Africa to Canada, Mexico USA; from Canada, USA to South Africa	R-14
074zz	Special Excursion (PEX) Fares from Mauritius, Seychelles to Canada, Mexico, USA	R-15
075e	Super Advance Purchase Excursion Fares Canada, USA to South Africa	
076a	Super Excursion (PEX) Fares from South Africa to Canada, USA	
076qq	Special Excursion (PEX) Fares from Mexico to Africa	
084i	Group Inclusive Tour Fares from Canada, USA to Africa	
084LL	Group Inclusive Tour Fares between Canada, Mexico, USA and Africa	
092k	Youth Student Fares between Canada, USA and Africa	
311i	Excess Baggage Charges from Canada to Africa	

2. These agreements are a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects.

Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral is mandatory under 49 U.S.C. 41308.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, immunity for a conference agreement must be conferred with approval of that agreement. Consequently, we will grant antitrust immunity to the agreement in Docket OST-95-723, as set forth in finding paragraph 1 above, subject to the conditions imposed therein.

ACCORDINGLY,

1. We approve and grant antitrust immunity to the agreement contained in Docket OST-95-723, as set forth in finding paragraph 1 above, subject to previous conditions imposed.

By:

MARK L. GERCHICK
Acting Assistant Secretary for Aviation
and International Affairs

(SEAL)

Pursuant to authority assigned by the Department's Regulations, 14 CFR 385.13:

1. We do not find that the following resolutions, which have direct application in foreign air transportation as defined by the Code, are adverse to the public interest or in violation of the Code, provided that approval is subject to conditions previously imposed:

<u>IATA Reso.</u>	<u>Title</u>
002bb	Special Amending Resolution Within South East Asia
002cc	Special Amending Resolution Between South East Asia And South West Pacific

2. This agreement is a product of the IATA tariff conference machinery, which the Department found to be anticompetitive but nevertheless accepted on foreign policy and comity grounds by Order 85-5-32, May 6, 1985. The Department found that important

transportation needs were not obtainable by reasonably available alternative means having materially less anticompetitive effects. Antitrust immunity was automatically conferred upon these conferences because, where an anticompetitive agreement is approved in order to attain other objectives, such conferral is mandatory under the Code.

Order 85-5-32 contemplates that the products of fare and rate conferences will be subject to individual scrutiny and will be approved, provided they are of a kind specifically sanctioned by Order 85-5-32 and are not adverse to the public interest or in violation of the Code. As with the underlying IATA conference machinery, upon approval of a conference agreement, immunity for that agreement must be conferred under 49 U.S.C. 41308. Consequently, we will grant antitrust immunity to the agreement in Docket OST-95-750, as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

ACCORDINGLY,

We approve and grant antitrust immunity to the agreement contained in **Docket 95-750**, as set forth in finding paragraph 1 above, subject, where applicable, to conditions previously imposed.

Persons entitled to petition the Department for review of this order, under 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

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This order shall be effective and become the action of the Department of Transportation upon the expiration of the above period, unless within such period a petition for review is filed or the Assistant Secretary for Aviation and International Affairs gives notice that he will review this order on his own motion.

By:

Paul L. Gretch
Director, Office of International Aviation

(SEAL)